

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ELIZABETH HORTON,

Plaintiff

v.

CASE NO: 2:06CV526-DRB

DON WILLIAMS, ET AL

Defendants

MOTION TO DISMISS

Comes now Defendant Gerald Shockley, individually and in his official capacity, by and through counsel, Troy King, Attorney General of Alabama, and moves that this Honorable Court dismiss this civil action, upon the following grounds:

1. The complaint fails to state a cause of action for which relief can be granted.
2. This Honorable Court lacks subject matter jurisdiction.
3. The Defendant asserts that he is entitled to the protections of sovereign immunity pursuant to the Eleventh Amendment to the United States Constitution and Section 14, Alabama Constitution of 1901.
4. The Defendant further asserts that he is entitled to the protections of qualified immunity and state-agent immunity which is also known in as discretionary function immunity.

Respectfully submitted on this the 10th day of July, 2006.

TROY KING
ATTORNEY GENERAL

/s/ Jack Wallace, Jr.
Jack Wallace, Jr.
Assistant Attorney General

Address of Counsel:

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CERTIFICATE OF SERVICE

I hereby certify that I have, this the 10th day of July, 2006, electronically filed the foregoing with the Clerk of Court using the CM/ECF. The Clerk of Court using the CM/ECF system will send notification of this filing to the following:

Deborah M. Nickson
Attorney for Plaintiff
2820 Fairlane Drive, Suite A-10
Montgomery, AL 36116

/s/Jack Wallace, Jr.